

IN THE MATTER OF THE
COMMISSION'S INVESTIGATION
INTO A RESIDENTIAL ELECTRIC
RATE STABILIZATION AND MARKET
TRANSITION PLAN FOR BALTIMORE
GAS AND ELECTRIC COMPANY

BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND

CASE NO. 9052

**PETITION OF MAYOR AND CITY COUNCIL OF BALTIMORE FOR
EMERGENCY RELIEF FROM UNLAWFUL BUDGET BILLING IN
VIOLATION OF PUBLIC SERVICE COMMISSION ORDER 80638
AND REQUEST FOR EMERGENCY HEARING**

The Mayor and City Council of Baltimore ("Baltimore City" or "the City") hereby petitions the Public Service Commission ("PSC") for immediate emergency relief requiring Baltimore Gas & Electric Company ("BG&E") to cease and desist billing customers increased rates under its so-called "budget billing" plan and to refund money illegally billed. The grounds for this petition are that (i) the increased rates violate the law, including the PSC's Orders; (ii) the increased rates should not be imposed while the parties responsible for the rate hikes have not yet agreed on a workable plan for consumers; and (iii) no increased rates should be imposed pending final determination of the size or amount, if any, of a permitted rate increase.

Baltimore City files this petition on behalf of its citizens who have been unlawfully and unfairly billed by BG&E. The City reserves the right to intervene in cases brought by individual taxpayers, and to have individual taxpayers intervene

in this matter. The City's interest is in having these issues resolved quickly and fairly, and for its citizens/consumers to be heard in this process.

ARGUMENT

I. Budget billing violates the Public Service Commission's March 6 "Rate Stabilization Plan."

A. Consumers are being billed unlawfully prior to the expiration of the rate freeze.

The Public Service Commission's freeze orders provide unequivocally that the price freezes do not expire until July 1, 2006. *See* PSC Orders 75757 and 80638. Notwithstanding these clear Orders, BG&E has admitted that more than 50,000 of its "budget billing" customers received bills this month that factored in portions of the 72 percent average increase that was not to begin until July 1, 2006.

According to BG&E's website, so-called "budget billing" "lets you spread out your annual BGE bills into even monthly payments subject to periodic true-ups." *See also* PSC Order No. 80638 at 16 (BG&E representative describing the budget billing program as a program "which smoothes out billing amounts from month to month and allows customers to anticipate and budget their energy costs, thereby effectively providing a phase-in of market prices.").

The unlawful defect in BG&E's action is that budget billing—purportedly intended to assist consumers by "spreading out" or "smoothing out" bills—cannot be used as an excuse to bill consumers now for charges that may not lawfully go into effect until July 1, 2006. The law states unequivocally that increased rates may not

go into effect until July 1, and BG&E is not legally entitled to bill increased rates until that time. Any budget billing plan that is actually intended to help customers can and surely will be implemented at such time when it is legal to impose the increased rates.

B. The Public Service Commission already rejected the argument that charges can or should be imposed prior to July 1, 2006.

The PSC recently rejected a setoff plan which proposed allowing increased rates to be included one month earlier, in June 2006. Specifically, a staff regulatory economist for the PSC recommended:

[W]hile the price cap does not expire until July 2006, Staff recommends commencing the plan in June 2006, which is one month prior to the expiration of the rate cap freeze, as the early commencement will enable a further reduction to the total deferred amounts and holds down the full amount of subsequent increases.

PSC Order No. 80638 at 14. In response, Mr. Wallach, a consultant for The Office of People's Counsel:

expressed concerns regarding the proposal to increase SOS rates on June 1, 2006, noting it would complicate efforts to educate consumers regarding the program. He also states that the expedited implementation of the program in June may conflict with key provisions of the restructuring settlement agreement in Case No. 8794 which maintained the price cap through that month. Therefore, imposition of the surcharge prior to July 1, 2006 may prevent full recovery of the revenue reduction due customers pursuant to the settlement agreement.

Id. at 23 (emphasis added).

Ultimately, the PSC rejected early implementation of the Staff-recommended plan in light of the concerns expressed.

(Although the PSC noted the possibility that some plans involving early implementation may be acceptable in the future because of their “voluntary” nature, it can in no fair sense be stated that when a pre-existing budget billing customer is hit with a 72% increase to the bill without any meaningful notice, that this is “voluntary” in any real sense of the word. Fine print on the back of an invoice is insufficient. Thousands of BG&E customers can and will attest to that fact.)

When the PSC, which has oversight authority over BG&E and BG&E’s rate hikes, has rejected early implementation of the rate increases by even one month, BG&E cannot unilaterally impose the rate increases four months early on uninformed consumers.

C. Consumers are being billed without the required consumer education plan.

The PSC’s recent rate stabilization plan requires that a consumer education plan be put in place before the new rates are implemented. *See* PSC Order No. 80638, at 34 (discussing “sufficient opportunity for consumer education”), 40 (PSC directing “its Office of External Relations to work expeditiously with BGE and all other interested parties in developing appropriate customer education and enrollment material.”).

BG&E has not obtained an approved consumer education program and customers who have been billed have not been given either consumer education materials or rate stabilization options as required by the PSC order. To the contrary, budget billing customers are receiving no education. When they seek

more information from BG&E after receiving their increased bills, consumers are told by BG&E representatives that the bill has been issued, and that they have to pay it. Again, the fact that consumers are not receiving adequate or meaningful information about what is happening to their bills or what their options are violates the PSC Order.

D. No increase should go into effect at this time because there is great uncertainty as to what increase, if any, will be allowed.

There is a substantial public debate underway in the Maryland General Assembly and elsewhere on the subject of BG&E's proposed 70%+ rate increases. Pending the conclusion of that debate and final determination of the amount, if any, of any rate increase, no increase should go into effect, and particularly no increase should be imposed on the most vulnerable consumers, these being the persons most likely to be using budget billing.

II. The rate increase to budget billing customers violates fundamental notions of fairness and due process.

In the face of extraordinary and unacceptable rate increases and consumer outrage, the parties responsible for this problem are now scrambling to find an adequate solution. Although the proposed solutions differ, nobody (except for the utility) is now saying that the current plan is adequate. Because it is now abundantly clear that the current plan is no plan at all and will not stand, "budget billing" consumers should not have to pay unlawful prices while those responsible agree on a plan to fix the problem.

The fact that BG&E could “adjust” or “refund” money to customers once this situation is resolved is not an adequate answer. BG&E should not be entitled to play the role of banker while a legitimate plan is formulated. This is especially true for those low income families who do not have the luxury of paying out extra money from their weekly paycheck, with the “promise” that the money will be [potentially] repaid or credited when things are worked out at some unknown time in the future.

RELIEF REQUESTED

For the reasons stated, the Mayor and City Council of Baltimore requests that the PSC hold an emergency hearing and issue an immediate order requiring BG&E to (i) stop billing customers unlawful rate hikes under its so-called “budget billing” plan; and (ii) immediately refund all money illegally billed.

Respectfully submitted,

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